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SUBJECT: FIGHTING CORRUPTION IN HCMC AN UPHILL BATTLE

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REASON: 1.4 (b), (d)

11. (C) SUMMARY: According to the officials charged with leading the fight against official corruption in HCMC, their work is stymied by multiple factors. Because the Government Inspectorate (GI) lacks subpoena power or other authority to force cooperation, investigations of government employees can be effectively blocked by the employees' department or agency. Investigations of Communist Party members cannot even begin without the permission of top party leaders. Beyond these specific barriers to investigating malfeasance, top anti-corruption officials believe that their most daunting challenge stems from the fact that rank and file GVN employees believe that their top leaders abuse their office for personal gain and thus conclude that corruption is an accepted practice. The lack of whistle blower protection is one obstacle to prosecutions that at least some top anti-corruption officials are determined to address. Despite the bleak picture they paint, the openness and dedication of anti-corruption officials provides some cause for optimism. END SUMMARY.

INSPECTORS FIGHTING AN UPHILL BATTLE

12. (C) According to Lam Xuan Truong (protect), the Chief Inspector of Ho Chi Minh City, the city's (and GVN's) on-going campaign against official corruption will never succeed until Vietnam's top Party and government officials begin to lead by example. Truong explained to CG that it is impossible to convince rank and file GVN employees to refrain from taking bribes, misusing funds or abusing their official positions as long as they see top leaders, their family members and supporters all getting rich. "Corruption in Vietnam starts at the top," Truong stated matter of factly, "and can only be effectively fought by starting at the top."

13. (C) Recalling his visit to the USA earlier this year on a Voluntary Visitor (VolVis) program, Truong confidently declared that the separation of powers is the fundamental basis for the USA's success as a nation. He was not just referring to the classic three branches of government, but also to the application of the principal within government agencies at all levels. Truong contrasted the independence of Inspectors General and other anti-corruption officials in the USA to the situation he and his staff face. Unlike their counterparts in the USA or in the political and security branches of the MPS, the Government Inspectorate (GI) in Vietnam has no subpoena powers or other ability to force cooperation from government offices. While they can investigate individuals, they cannot enter or otherwise search their offices, computers or files

without the expressed, written consent of the department involved. Even if an employee's immediate supervisor agrees to a search, all it takes is one official somewhere up the chain of command to object in order to shut the entire investigation down. While Truong can sometimes use his personal authority as Chief Inspector of HCMC to prevail upon city leaders to convince an office or department to allow an investigation to succeed, he added that his requests are frequently ignored. When CG expressed his surprise at this lack of authority given the wide media coverage of cases where the MPS seized all files, computers and other equipment from offices, Truong pointed out that the GI is not the MPS. He explained that even within the MPS, different divisions have different authorities. The political and security police stand at one extreme and have absolute authority to demand or seize any record from anyone without a court order. Truong describes the GI as being at the other end of the spectrum, with no ability whatsoever to force cooperation.

¶4. (C) Investigating CPV members for malfeasance is even more difficult. Truong explained that the GI cannot begin an investigation of any CPV member, no matter how junior, without first obtaining the permission of the Communist Party of HCMC. Even for the most junior party members, the decision will be made by the city's top Party leadership, including Party Secretary (and Politburo member) Le Thanh Hai and First Deputy Party Secretary Nguyen Van Dua. For party members with some degree of seniority or for high profile cases, the Communist Party of HCMC will routinely refer the case to top CPV leadership in Hanoi for a decision. Because the request must be filed BEFORE the investigation can begin, Inspectors are frequently left in a Catch-22 situation: the Party won't approve an investigation without first seeing overwhelming evidence against the individual but an Inspector can be disciplined or even jailed for conducting an investigation prior to receiving permission. In practice, Truong added, the only way for a CPV member to be investigated is for some other CPV entity, such as

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the Fatherland Front or rival GVN entity, to request an investigation based upon numerous, well-documented complaints. Even in those cases, the Party will generally counsel its errant member to moderate his/her behavior rather than authorize an investigation. Only CPV members who fail to respond to counseling or who embarrass the Party are investigated. Even then, high-placed Party members will often act to shield loyal supporters who fall under their "umbrella." Truong cited the case of the jailed former deputy director of the city's Department of Planning and Investment, Nguyen Ngoc Sy, as an example of someone whom his department requested to investigate but was denied. (Note: As explained reftel, Sy enjoyed very close personal ties to HCMC Party Secretary Le Thanh Hai. End Note.) While Sy's corruption, and unexplained affluence, were well known for years, it was only after a Japanese court convicted a Japanese firm of paying bribes directly to Sy led to widespread international new coverage that the CPV finally allowed Sy to be prosecuted. Even then, the case was given to the MPS's security division rather than to the Government Inspectorate for investigation.

¶5. (C) Despite all the hurdles they face, Truong praised the inspectors who work for him for their dedication, stating that they do their best to investigate and prosecute those cases that they are allowed to pursue. Truong cited the fact that his office racked up more than 50 convictions so far in 2009 as proof both of the dedication of his inspectors and the fact they can investigate only a tiny percentage of cases. Even beyond all the bureaucratic and political roadblocks the GI of HCMC faces, Truong staff numbers less than 30 inspectors for a city with over 300,000 employees. Truong spoke almost longingly of size and power of various IG offices he had visited in the USA.

PARTY DOES NOT EXACTLY DISAGREE

¶6. (C) Nguyen Hong Ngoc, the Vice Chairman of the Subcommittee on Inspection of the Communist Party of HCMC, was less direct

than Chief Inspector Truong but did not contradict him. According to Ngoc, it is the CPV's duty to its members to help them to realize their mistakes and improve that leads the CPV to block most investigations. In what sounded like a tacit admission that corruption by CPV members is officially tolerated, Ngoc added that it is important to realize that official salaries of CPV cadre are often so low as to make it impossible to support a family, particularly in HCMC.

WHISTLE BLOWER PROTECTION

17. (C) One topic on which Truong, Ngoc and others involved in anti-corruption efforts all seem to agree is the need for Vietnam to adopt meaningful laws to protect whistle blowers. They are not alone. Tran Du Lich, the head of the National Assembly's Economics Committee and the Deputy Chief of the Southern Caucus in the NA, has repeatedly raised the need for whistle blower protection during NA discussions, noting that efforts to root out waste and abuse in State-owned Enterprises (SOEs) are hamstrung by the fact that there is no effective oversight mechanism and that employees justifiably fear incriminating their bosses. One big obstacle to passing whistle blower protection laws, both Truong and Du Lich have independently told CG, are fears that people motivated by political considerations or simple personal animosity would abuse whistle blower protection to lay false charges.

18. (C) Truong went one step further, explaining that the biggest obstacle of all to protecting whistle blowers is the lack of commitment among top CPV members to really reign in corruption. While nearly everyone genuinely condemns direct cash bribery as being not only illegal but also stupid and likely to embarrass Vietnam and/or the CPV, Truong said that top leaders do not see placing relatives and supporters in lucrative positions as corruption, nor is steering contracts or special opportunities to purchase land, shares in companies, etc. Until GVN and CPV can agree on what constitutes corruption, Truong sees little hope for progress on protecting those who report it. Despite this, Truong, who is nearing mandatory retirement age, states that he plans to open an NGO modeled after a US-based whistle blower protection advocacy group in the USA in order to raise awareness of the importance of protecting those who come forward in good faith with information on real or perceived corruption. Unfortunately, Truong added, he feels bound to strictly adhere to Vietnamese anti-corruption regulations that prohibit former GVN officials from engaging in any private activities related to their former official position for five years after leaving government service.

COMMENT

19. (C) While the picture painted by HCMC Chief Inspector Lam

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Xuan Truong is not encouraging, what is encouraging is the obvious dedication that he and his staff bring to what must be an agonizingly frustrating challenge. Truong, who is himself a CPV member, bears no illusions about the challenges he -- and Vietnam -- face. End Comment.

110. (C) Note: Most of the conversations that provided the basis for this cable were made possible thanks to relationships that grew out of a very successful VolVis on Anti-Corruption programs in the USA that was organized by Embassy Hanoi in the spring of 2009. Three members of the Government Inspectorate of HCMC were invited to accompany the national Government Inspectorate on that trip. All three were greatly impressed, not only by the sophistication of anti-corruption activities in the USA but by the complete frankness with which USG and local officials discussed corruption cases, including "embarrassing" cases and those against very senior officials. It was most likely the openness of US-based officials that led HCMC officials to speak so openly. End Note.

FAIRFAX